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FISCAL IMPACT STATEMENT

LS 6542

BILL NUMBER: SB 140

NOTE PREPARED: Feb 2, 2005

BILL AMENDED: Feb 1, 2005

SUBJECT: Use of Charity Gaming Proceeds.

FIRST AUTHOR: Sen. Paul

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) The bill prohibits the Department of State Revenue (Department) from adopting a rule requiring a qualified organization to use a minimum percentage of its gross receipts from allowable events for its lawful purposes. The bill eliminates the Department's authority to set by rule the allowable expenditures of a qualified organization with respect to an allowable event. The bill sets forth the expenses that may be subtracted from gross receipts to determine a qualified organization's net proceeds from an allowable event. The bill also voids certain rules adopted by the Department regarding the use of charity gaming proceeds.

Effective Date: Upon passage.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) *Summary:* The bill does the following:

- (1) prohibits the Department of State Revenue (DOR) from requiring charity gaming licensees to use a minimum percentage of the gross receipts from charity gaming events for charitable purposes;
- (2) voids existing use of proceeds rules by the DOR;
- (3) repeals the DOR's authority to set the allowable expenditures of a charity gaming licensee for purposes of a charity gaming activities;

(4) specifies the expenses that a licensee may subtract from its gross gaming receipts to compute its net charity gaming proceeds.

Current law unchanged by the bill limits the use of net charity gaming proceeds to the lawful purposes of the licensee.

The prohibition on use of proceeds rules by the DOR has a fiscal impact to the extent that any such requirements the DOR may otherwise implement in the future, or any expenses a licensee may not be able to subtract in computing net proceeds, causes existing licensees to discontinue charity gaming. If these provisions would result in fewer licensees, this could potentially reduce revenue from charity gaming license fees depending upon whether patrons shift their charity gaming expenditures to other licensees and the impact this has on their gross charity gaming receipts.

The provision of the bill voiding existing use of proceeds rules (45 IAC 18-37 and 45 IAC 18-3-8) has no impact, as the DOR has been enjoined from enforcing these rules by the Marion County Superior Court. This ruling was not appealed by the state.

Background: Under current statute, the DOR is authorized to adopt rules: (1) for the establishment, implementation, and operation of allowable charity gaming events; and (2) to set the allowable expenditures of a qualified charitable organization with respect to allowable charity gaming events. Current statute also specifically requires that all net proceeds from allowable charity gaming events must be used for the charitable purposes of the organization. The DOR filed rules on February 28, 2003, that included the minimum use of proceeds requirements (under 45 IAC 18-37 and 45 IAC 18-3-8) specified in the table below.

Annual Charity Gaming Gross Receipts	Percent to be Used for Charitable, Community, or Educational Purposes of the Organization
Less than \$150,000	5%
\$150,000 to \$500,000	8%
More than \$500,000	10%

The rules provided for the suspension or revocation of a charity gaming license in the event an organization doesn't comply with the use of proceeds requirements. Under the rules, suspensions would have lasted for a period of time determined by the DOR, but revocations would have been permanent. On August 9, 2004, Marion Superior Court Judge David J. Dreyer issued an order enjoining the DOR from enforcing the use of proceeds rules. This ruling was not appealed by the state.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources: Department of State Revenue.

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